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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/534,880

06/16/2005

Remy Cricco

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8760

21839 7590 01/02/2009
BUCHANAN, INGERSOLL & ROONEY PC
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EXAMINER

VU, MICHAEL T

ART UNIT

PAPER NUMBER

2617

NOTIFICATION DATE

DELIVERY MODE

01/02/2009

ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

ADIPFDD@bipc.com

<p align="center">Advisory Action Before the Filing of an Appeal Brief</p>	<p>Application No. 10/534,880</p>	<p>Applicant(s) CRICCO ET AL.</p>	
	<p>Examiner MICHAEL T. VU</p>	<p>Art Unit 2617</p>	

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 18 December 2008 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.
b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
(a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);
(b) ☐ They raise the issue of new matter (see NOTE below);
(c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
(d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☐ Applicant's reply has overcome the following rejection(s): _____.
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☒ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☒ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
The status of the claim(s) is (or will be) as follows:
Claim(s) allowed: _____.
Claim(s) objected to: _____.
Claim(s) rejected: 1-13.
Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because:
See Continuation Sheet.
12. ☐ Note the attached Information *Disclosure Statement*(s). (PTO/SB/08) Paper No(s). _____.
13. ☐ Other: _____.

/Alexander Eisen/
Supervisory Patent Examiner, Art Unit 2617

ADVISORY ACTION

On page 4 of Applicant's remarks, Applicant argues that both Sato and Ramaswamy fail to disclose or suggest an "application message containing the first application part and the second formatted application part," "installing in the terminal the first application part extracted from the application message" and "loading the second application part extracted from the application message from the terminal into the chip card," on lines 1-5.

In response, Sato clearly discloses a first application part such as smart card or SIM (Figure #1, Smart Card #11), and a second application part such as service provider (Figure #1, Server or Service provider #107), in which which exchanges the smart card and a command, on the client side of the service provider (See Para [0007-0013]), and ([0076-0082]).

Moreover, Sato indeed clearly discloses a source program PS corresponding to an application AP, a first part APT of which, which may be empty, is to be downloaded into the terminal 2, and a second part APC of which is to be downloaded into the chip card 3, was written initially in a high-level language of the object oriented type such as Java as skilled in the art understand that high level languages used application that registered trade mark (e.g. An object-oriented programming language that is platform independent (the same Java program runs on all hardware platforms without modification). Developed by Sun, Java is widely used on the Web for both client and server processing. Modeled after C++, Java added programming enhancements such as "garbage collection," which automatically frees unused memory. It was also designed to run in small amounts of memory. The first Web browsers to run Java were Sun's HotJava and Netscape Navigator 2.0 etc.), this part is inherently included in the programming language created by Sun Microsystems. Java is a device-independent language, meaning that programs compiled in Java can be run on any computer. (See Para [0009-0011], Loading Applications).

Furthermore, Sato discloses the service provider are connected through a network, and that a server and a client are also connected through the network. As a matter of course, exchange is also possible in the forms such as FD and document [0010].

From the above, the examiner believes that the rejection of claims 1-4, 18-24, and 38-40 are proper and are therefore maintained.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Michael T. Vu whose telephone number (571) 272-8131. The examiner can normally be reached on 8:30 AM – 5:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, William Charles N. Appiah can be reached on (571) 272-7904. The fax phone numbers for the organization where this application or proceeding is assigned are (571) 272-8300.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (571) 272-9000.

Michael Vu
Examiner
AU-2617

